

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CIVIL CASE NO.

TSURT, LLC and PEARL JAM, LLC,

Plaintiffs,

V.

VARIOUS JOHN DOES, JANE DOES,
and ABC COMPANIES

Defendants.

**[PROPOSED] ORDER TO SHOW
CAUSE ON MOTION FOR
PRELIMINARY INJUNCTION
WITH TEMPORARY
RESTRAINING ORDER AND
ORDER OF SEIZURE**

Upon the declarations of Kenneth A. Feinswog and Christopher Siglin, Plaintiffs' Memorandum of Law and the Complaint submitted herewith and all other pleadings and proceedings had herein and good cause having been shown:

IT IS HEREBY ORDERED THAT Defendants, Various John Does, Jane Does and ABC Companies, their true identities being unknown, show cause on the ____ day of September 2024 at ____ o'clock in Courtroom ____ at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, why an order pursuant to Fed.R.Civ.P. 65 should not be entered granting Plaintiffs a preliminary injunction enjoining Defendants from manufacturing, distributing, selling or holding for sale and authorizing seizure of all clothing, jewelry, photographs, posters and other merchandise (collectively the “Infringing Merchandise”) bearing the PEARL JAM trademark, likenesses and logos (collectively the “PEARL JAM Trademarks”);

IT APPEARING TO THE COURT that Defendants are distributing and/or are about to distribute in interstate commerce and sell at or near the sites of the current PEARL JAM United States concert tour, clothing, jewelry, photographs, posters and other merchandise bearing the

PEARL JAM Trademarks and will continue to carry out such acts unless restrained by Order of the Court;

AND IT APPEARING TO THE COURT that immediate and irreparable injury, loss and damage will result to Plaintiffs before Defendants can be identified and given notice and their attorneys can be heard in opposition to the granting of the Temporary Restraining Order, in that Defendants are preparing to manufacture, distribute and sell Infringing Merchandise throughout the current PEARL JAM concert tour and that unless Defendants are enjoined from said manufacture, distribution and sale, Plaintiffs will suffer immediate and irreparable injury and harm in the form of loss of income, the dilution of the PEARL JAM Trademarks, interference with Plaintiffs' ability to exploit, market and license its merchandising rights, confusion in the marketplace as to the duly authorized source of PEARL JAM merchandise and the impairment of the goodwill that Plaintiffs and PEARL JAM have in the PEARL JAM Trademarks;

IT IS HEREBY ORDERED that pending the hearing and determination of this Motion, Defendants, their agents, servants, employees, attorneys, successors and assigns and all persons, firms and corporations acting in concert with them are temporarily restrained from manufacturing, distributing and selling Infringing Merchandise bearing the PEARL JAM Trademarks;

IT IS FURTHER ORDERED that the U.S. Marshal for this District, the U.S. Marshal(s) and/or state, county or local law enforcement authorities, including off duty officers of the same, for any such district in which Plaintiffs enforces this order and persons acting under their supervision are hereby authorized to seize, impound (and deliver to Plaintiffs or their representatives), any and all Infringing Merchandise bearing the PEARL JAM Trademarks, including from cartons, containers or vehicles or other means of transport in which the Infringing Merchandise is found beginning four (4) hours before and continuing until four (4) hours after any performance on any concert on the PEARL JAM tour within a four (4) mile radius of the concert on the PEARL JAM tour including, but not limited to, the PEARL JAM concerts at Madison Square Garden, New York, New York on September 3 and 4, 2024;

AND IT IS FURTHER ORDERED that this Order is hereby conditioned upon Plaintiffs filing with the Clerk of this Court, an undertaking, a surety bond or a certified, cashiers or attorneys' check, credit card or cash in the amount of _____ Dollars no later than September 3, 2024 to secure payment of such costs and damages not to exceed such sum as may be suffered or sustained by any party who is found to be wrongfully restrained hereby;

AND IT IS FURTHER ORDERED that this Temporary Restraining Order is conditioned upon Plaintiffs advancing to law enforcement officers such sum as is required to cover the fees for their services, in the event that Plaintiffs seek their services in this or any other district,

AND IT IF FURTHER ORDERED that service of a copy of this Order to Show Cause together with the Complaint shall be made upon Defendants by the United States Marshal, state or local enforcement authority or by any person over the age of eighteen (18) years not a party to this action selected for that purpose by Plaintiffs, at the time of the seizure provided herein is effected and that such service shall be deemed good and sufficient;

AND IT IS FURTHER ORDERED that the process server shall offer a receipt to each person from whom merchandise is seized and that Plaintiffs shall be deemed substitute custodian for all Infringing Merchandise seized;

AND IT IS FURTHER ORDERED that each and every Defendant served with a copy of this Order shall promptly, courteously and peaceably identify himself or herself to the aforementioned process server and that the process server or agents for Plaintiffs shall be allowed to photograph, video tape or otherwise identify the Defendant;

AND IT IS FURTHER ORDERED that Defendants' responsive papers, if any, shall be filed with the Clerk of this Court and served upon Plaintiffs' attorney by delivering a copy to its counsel on or before September ___, 2024; Any reply shall be filed by Plaintiffs and served upon each appearing Defendant or his/her counsel on or before September ___, 2024. Plaintiffs shall provide copies of pleadings at the request of any identified Defendant;

AND IT IS FURTHER ORDERED that pursuant to F.R.Civ.P. 65(b)(4), any Defendant can apply to this Court to dissolve or modify this Order on two (2) days' notice or shorter notice as this Court may allow, but no such objection shall serve to suspend this Order or stay the terms hereof unless otherwise ordered by this Court.

Dated: September ____, 2024

Time: _____

UNITED STATES DISTRICT JUDGE